

**Issue:** Failure to Have Motor Fuel Use Tax Decal/Permit

Administrative Law Judge

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Liability, showing a total liability due and owing in the amount of \$1000.00. (Dept. Ex. #1)

2. The taxpayer was stopped on July 12, 1995, by the Illinois Commerce Commission police and issued a warning for failure to display a motor fuel use tax license and failure to display motor fuel use tax decal. (Dept. Ex. #3)

3. On July 28, 1995, the Department issued a penalty assessment of \$1,000.00 for failing to secure an Illinois Motor Fuel Use Tax License. (Dept. Ex. #1)

**Conclusions of Law:**

On examination of the record established, this taxpayer has failed to demonstrate by the presentation of testimony or through exhibits or argument, evidence sufficient to overcome the Department's *prima facie* case of tax liability under the assessment in question. Accordingly, by such failure, and under the reasoning given below, the determination by the Department must stand as a matter of law.

625 ILCS 5/11-1419.02 required the taxpayer, when operating his semi trailer in Illinois to display a valid external motor fuel identification device on the truck.

The record is clear that the taxpayer had no device displayed on the semitrailer. Pursuant to the Motor Fuel Tax Law at 35 ILCS 505/13a.6, the taxpayer is subject to a \$1,000.00 penalty.

**Recommendation**

It is my recommendation that Assessment XXXXX be finalized in its entirety.

Date\_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge